MINISTRY OF TRANSPORT.

RAILWAYS ACT, 1921.

FIFTH ANNUAL REPORT

OF THE

RAILWAY RATES TRIBUNAL

for the Year 1926.

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RAILWAYS ACT, 1921.

THE RAILWAY RATES TRIBUNAL.

FIFTH ANNUAL REPORT—FOR THE YEAR 1926.

To Lt.-Col. The Rt. Hon. Wilfrid W. Ashley, M.P.,
Minister of Transport.

Sir,

We, the Railway Rates Tribunal, established under Section 20 of the Railways Act, 1921, have the honour to make to you our Fifth Annual Report, for the year 1926, in accordance with Section 22 (3) of the said Act.

Organisation.

The constitution of the Tribunal remains unaltered, but, since our last report, certain changes have been made in the general and railway panels constituted under Section 24 of the Act, and a list of the appointments to these panels is given in the first schedule hereto.

Proceedings.

The " appointed day " not yet being determined, our jurisdiction and duties during 1926 were still confined to :—(1) the determination of applications coming within our transitory jurisdiction relating to the charges in operation prior to the " appointed day " and applications under such sections of the Act giving us a permanent jurisdiction as are in operation before the " appointed day," (2) the settlement of the new system of railway charges to be brought into operation under various sections of the Act on the " appointed day."

Applications.

At the end of 1925 we had before us nine pending applications and details of the further proceedings thereon are given in the first part of the second schedule hereto. During 1926 we received 11 further applications, details of which are given in the second part of the second schedule hereto. Two of these were applications under Section 60 of the Act for the modification or determination of charges. The remaining nine were applications under Section 34 of the Act for the continuance of special charges after the " appointed day."

New System of Railway Charges.

In accordance with the intention indicated in our report for last year, we have proceeded with the consideration of matters affecting standard charges, owner's risk rates, and circuitous routes. A general account of our proceedings is given hereafter and fuller details may be obtained from the official reports which have been published by us through H.M. Stationery Office.

Standard Charges.

On 14th January, 1926, we considered a programme of the various matters which it was necessary to consider prior to the " appointed day," and, after hearing various parties thereon, fixed dates for hearings in connection with certain of these matters.

We then proceeded to consider the objections of the London County Council and certain other objectors to the Railway Companies' estimates of railway working expenses for " A " Year, the hearing of which occupied the following dates :—

14th, 15th, 19th January,
1st, 2nd and 5th February, 1926.

On 19th January we also considered the question of the estimated division of gross revenue to be raised from (*a*) passenger train traffic and its constituents, (*b*) goods train traffic and its constituents.

On 9th, 10th, 11th, 12th, 15th, 16th and 17th March, 1926, we considered, in respect of each amalgamated railway company, (1) the aggregate net revenue in the year 1913, (2) the estimate of railway working expenses for " A " year, (3) the estimate of revenue from other sources for " A " year. In addition to the figures submitted by the Railway Companies, we had also before us, in connection with these matters, agreements between the Railway Companies and the Traders Co-ordinating Committee dated 29th September, 1924, and 16th December, 1925, and also very valuable observations made by you in reports dated 24th October, 1925, 9th November, 1925, and 2nd March, 1926. Certain of these have already been referred to in previous reports made by us. Arising out of these hearings, we gave two judgments in writing signed by us and delivered by sending copies to the parties appearing at the hearing. The first, dated 30th March, 1926, dealt with certain questions of law arising on the estimates of revenue from other sources for " A " year (Docks, Harbours and Wharves). The second, dated 6th April, 1926, was a general judgment on the various matters before us.

Verbatim reports of the aforesaid proceedings and copies of the judgments were published by us through H.M. Stationery Office.

The Manchester Ship Canal Company and the Dock and Harbour Authorities Association gave Notice of Appeal against our judgment dated 30th March, 1926. The material part of our Order upon this judgment was as follows :—

" THE COURT DOTH ORDER AND DECLARE AS FOLLOWS :—

" That for the purpose of fixing Standard Charges under the Railways Act, 1921,

" (*a*) The Estimates of Other Sources of Revenue for the respective companies aforesaid as set forth in the tables R.T.2.c., R.T.3.c., R.T.4.c., and R.T.5.c., conform to and satisfy the requirements of the Railways Act, 1921, and be accepted.

" (*b*) That the ancillary or subsidiary businesses of Docks, Harbours and Wharves carried on by the several companies aforesaid, are not businesses in which the several companies are not making or have not taken reasonable steps to enable them to make adequate charges in respect of any such businesses.

" (*c*) That that portion of the said estimates relating to Joint Lines and to Collection and Delivery be accepted."

The Manchester Ship Canal Company asked that the portion of our judgment affected might be reversed or varied and that it might be ordered, directed or declared as follows :—

" (1) That the said Estimates of other sources of Revenue for the respective Companies aforesaid do not conform to or satisfy the requirements of the Railways Act, 1921, and be not accepted.

" (2) That for the purpose of arriving at the estimates of receipts and expenditure as set forth in the tables R.T.2.c., R.T.3.c., R.T.4.c., and R.T.5.c., in respect of the businesses carried on by the said respective Railway Companies as undertakers of Docks, Harbours and/or Wharves all receipts and expenditure in respect of all lands, railway lines, junctions, sidings, tramways, warehouses, cranes, coal tips, sheds, machinery and other works buildings, conveniences and appurtenances acquired used constructed installed and maintained under or by virtue of the respective Acts of Parliament authorising the said respective Railway Companies or their predecessors to construct and maintain the said Docks, Harbours and/or Wharves or any part thereof shall be included in the said estimates as ' Receipts and Expenditure in respect of Docks, Harbours and Wharves '.

" (3) That it be referred to the Minister of Transport or such person or persons as he may appoint to enquire and report to this Court in the case of each of the said Docks, Harbours and Wharves of the said respective Railway

Companies whether any and if so what lands, railway lines, junctions, sidings, tramways, warehouses, cranes, coal tips, sheds, machinery and other works buildings, conveniences and appurtenances are to be included in the said Docks, Harbours and Wharves for the purpose of the said estimates in accordance with the directions of Paragraph 2 of this Order.

" (4) That the Receipts and Expenditure in respect of the businesses of collection and delivery of parcels and goods carried on by the said respective Railway Companies and set out in the said Tables R.T.2.c., R.T.3.c., R.T.4.c., and R.T.5c., respectively, be amended by adding thereto all receipts and expenditure in respect of the collection and delivery of parcels and goods by water and by rail."

The Notice of Appeal of the Dock and Harbour Authorities Association was in terms similar to Paragraphs numbered 1, 2 and 3 in the Notice of Appeal of the Manchester Ship Canal Company.

The result of these appeals is now pending.

As the result of our proceedings mentioned above and our earlier proceedings, we were in a position at this stage to estimate approximately, in respect of each amalgamated company, the amount of gross revenue at which we should aim in fixing charges under Section 58 (1) of the Act. We were thus able to commence the consideration of the Schedules of Standard Charges which had been submitted by the Railway Companies and the various objections thereto which had been lodged. We sat for this purpose almost continuously except for the period of the General Strike and the Summer Vacation. The hearing commenced on 13th April, 1926, and extended over the following 55 days:—

April 13th, 14th, 15th, 16th, 19th, 20th, 21st, 22nd, 23rd, 26th, 27th, 28th.

May 3rd.

June 7th, 8th, 9th, 10th, 11th, 15th, 16th, 17th, 18th, 22nd, 23rd, 25th, 29th.

July 1st, 2nd, 5th, 6th, 7th, 8th, 9th, 12th, 13th, 14th, 15th, 16th, 19th, 20th, 21st, 22nd, 23rd, 26th, 27th, 28th, 29th, 30th.

October 4th, 5th, 6th, 7th, 8th, 11th, 12th.

We examined the Schedules in great detail and heard evidence and arguments from the Railway Companies and some 83 objectors. Certain of these objectors represented associations and bodies, as in the case of the Traders Co-ordinating Committee who presented a case on behalf of many trade associations and individual firms, and the National Association of Railway Travellers who spoke for a number of passenger associations and

public authorities. After carefully considering all the evidence and arguments put before us, we gave judgment in writing, dated 30th December, 1926, signed by us and delivered by sending copies to the parties appearing at the hearing. By this judgment we provisionally approved the Schedules as lodged by the respective companies subject to the modifications shown in the appendix to the judgment. Verbatim reports of the aforesaid proceedings and copies of the judgment were published by us through H.M. Stationery Office.

In connection with our proceedings upon the Schedules, we would mention the case of Tate and Lyle, Ltd., *v.* the London and North Eastern Railway Company and the London, Midland and Scottish Railway Company. This was an action brought in the Chancery Division of the High Court of Justice and taken on appeal to the Court of Appeal and the House of Lords. By it the Companies appear to have established their power, during the period up to the "appointed day," to increase existing charges by notice, without any order from us, within the limits of the charges in operation on 15th August, 1921, or of any modified charges which we have substituted or may substitute therefor.

Owner's Risk Rates.

On 15th November, 1926, the Amalgamated Railway Companies submitted to us, in accordance with Section 46 (1) of the Railways Act, 1921, "provisional proposals of the Railway Companies respecting the reductions to be made from the Standard Charges where damagable merchandise is carried by merchandise train under Owner's Risk conditions." By order of the same date we required the Railway Companies to advertise a public notice stating that such proposals had been submitted, that the proposals might be inspected at this Office or copies obtained from the Rates and Charges Committee of the Railway Companies, and that any person or persons desirous of attending and being heard at the consideration by us of the said proposals must lodge with us a written notice of such desire, setting forth in such notice his (or their) objection, on or before the 20th December, 1926. Eight-seven such notices were lodged, and we propose early in 1927 to sit to consider the said proposals and the objections thereto.

Circuitous Routes.

In connection with the Schedules of Circuitous Routes and the public notice referred to in our report for last year, the numbers of objections lodged in connection with the Schedules of the respective Companies were as follows:—

Great Western Railway Company	8
London, Midland and Scottish Railway Company	11
London and North Eastern Railway Company ...	9
Southern Railway Company	4

On 20th January, 1926, you transmitted to us additional schedules submitted by the Great Western and London and North Eastern Companies respectively, which involve the following additions to the analysis given in our report for last year :—

	Distances longer than the shortest route by—		
	30 % to 49 %.	50 % to 100 %.	Over 100%.
Great Western Railway Co.	—	—	123
London & North Eastern Railway Co.	3,277	272	3

On 9th February, 1926, we sat to consider the schedules we had received, and, after considering the principles on which they had been framed, adjourned the hearing to await the submission of certain additional schedules. A report of our proceedings was published through H.M. Stationery Office.

On various dates in February and March, 1926, you transmitted to us additional schedules, which involve the following extension of the analysis of submissions :—

	Distances longer than the shortest route by—		
	30 % to 49 %.	50 % to 100 %.	Over 100 %.
Great Western Railway Co.	3	4	—
London, Midland & Scottish Railway Co.	129	132	8
London & North Eastern Railway Co.	10,521	3,783	273
Cheshire Lines Committee	7,972	6,244	686
Midland & Great Northern Railways Joint Committee.	2,269	1,300	190
Somerset & Dorset Joint Line.	1,048	2,098	248
Metropolitan Railway Co.	653	680	199

By Order dated 30th March, 1926, we required the Companies and Committees concerned to give public notice by advertisement that the additional schedules had been referred by you to us and might be inspected at this Office, and that any party desiring to apply to be heard upon the consideration by us of the said schedules must lodge a written notice of such desire to be heard, with us, on or before the first day of May, 1926, in the

manner prescribed. In connection with this notice, one objection was lodged, relating to the Schedules of the Cheshire Lines Committee.

We hope to resume the hearing on the schedules at an early date.

General.

Having provisionally settled the Schedules of Standard Charges, and having under consideration the various other matters which require to be dealt with before the "appointed day," such as Owner's Risk rates and applications under Section 34, we anticipate that we shall be in a position to fix the "appointed day" for some date in 1927 or, at the latest, for the 1st January, 1928.

WALTER CLODE.
W. A. JEPSON.
GEO. C. LOCKET.

SIDNEY J. PAGE,
Secretary.

17th February, 1927.

FIRST SCHEDULE.

APPOINTMENTS AND RE-APPOINTMENTS TO THE GENERAL AND RAILWAY PANELS OF THE RAILWAY RATES TRIBUNAL.

1. GENERAL PANEL.

(a) *Twenty-two persons nominated by the President of the Board of Trade after consultation with bodies most representative of trading interests.*

1. Mr. J. Andrew of Messrs. Vickers, Ltd., Sheffield.
2. Mr. G. D. Atkinson of Messrs. Alton & Co., Ltd., Derby.
3. Mr. C. Augustus Carlow of the Fife Coal Company, Ltd., Leven, Fifeshire.
4. Mr. W. Escritt of Messrs. Joseph Rank, Limited, London.
5. Mr. A. J. Green of The Calico Printers' Association, Limited, Manchester.
6. Mr. H. J. Heath of The Glyncorrwg Colliery Company, Ltd., Cardiff.
7. Mr. E. Hoyle of Messrs. Brunner, Mond & Co., Ltd., Northwich.
8. Mr. T. E. Jackson of The Incorporated Association of Retail Distributors, London.
9. Mr. H. J. C. Johnston of The Leeds Fireclay Company, Limited, Leeds.
10. Mr. H. E. Knott, O.B.E., J.P., of Messrs. Marshall, Knott and Barker, Limited, Grimsby.
11. Major-General S. S. Long, C.B., of Messrs. Lever Brothers, Limited, Port Sunlight.
12. Mr. T. Morgan of The National Federation of Meat Traders' Associations, London.
13. Mr. G. W. Mullins, M.B.E., of The Cold Rolled Brass and Copper Association, Birmingham.

14. Mr. H. E. Parkes of Messrs. E. Parkes and Company, Ltd., West Bromwich.
15. Mr. E. W. Rainer of Messrs. Rownson, Drew and Clydesdale, Ltd., London.
16. Mr. W. Rhodes of Messrs. Keeling and Company, Limited, Stoke-on-Trent.
17. Mr. T. Ross of Messrs. Thomas Ross, Ltd., Grimsby.
18. Mr. R. W. Royle of the Co-operative Wholesale Society, Ltd., Manchester.
19. Mr. E. C. Snow of The United Tanners' Federation, London.
20. Mr. E. Wilkinson of Messrs. Thomas Ward, Ltd., Sheffield, and Federated Associations of Scrap Iron, Steel, Metals and Machinery Merchants of Great Britain.
21. Mr. A. J. Campbell of Messrs. Beardmore & Co., Ltd., Dalmuir.
22. Mr. F. A. Aykroyd of Birstwith Hall, near Harrogate, York.

(b) *Twelve persons nominated by the Minister of Labour after consultation with bodies most representative of the interests of labour and of passengers upon the railways.*

1. The Right Hon. Lord Riddell, 20, Queen Anne's Gate, S.W.1.
*2. Mr. H. Boothman, 115, Newton Street, Manchester.
*3. Mr. H. Skinner, Beechwood, Oak Drive, Fallowfield, Manchester.
*4. Mr. R. T. Jones, Midland Bank Chambers, Carnarvon.
*5. The Right Hon. T. Richards, 85, Ninian Road, Cardiff.
*6. Mr. B. Tillett, 3, Central Buildings, Westminster, S.W.1.
7. Mr. F. J. Wall, F.C.I.S., The Football Association, 42, Russell Square, W.C.1.
8. Sir Charles Wilson, M.P., Association of Municipal Corporations, Palace Chambers, Bridge Street, S.W.1.
9. Mr. Percy Hutchison, The Managers' Section of the Stage Guild, Trafalgar House, Great Newport Street, W.C.2.
10. Mr. S. J. Read, National Association of Railway Travellers, 79, Queen Street, Mansion House, E.C.4.
11. Rev. C. J. Smith, M.A., Incorporated Association of Headmasters, 59, Barrowgate Road, Chiswick, W.4.
12. Mr. Fred Coysh, United Commercial Travellers' Association of Great Britain and Ireland, 34, Red Lion Square, W.C.1.

(c) *Two persons nominated by the Minister of Agriculture after consultation with bodies most representative of agricultural and horticultural interests.*

1. Sir Walter Berry, K.B.E.
2. Mr. A. E. K. Wherry.

II. RAILWAY PANEL.

(a) *Eleven persons nominated by the Minister of Transport after consultation with the Railway Companies' Association.*

1. Mr. E. Ford, Great Western Railway Company, Paddington Station, W.2.
2. Mr. F. B. Mortimore, Great Western Railway Company, Paddington Station, W.2.
3. Mr. R. H. Nicholls, Great Western Railway Company, Paddington Station, W.2.
4. Mr. O. C. Gatenby, London and North Eastern Railway Company, Chesterfield.

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* Appointed for period ending 5th September, 1927.
Remaining members of both Panels appointed for period of three years ending 31st March, 1929.

5. Mr. G. Marshall, London and North Eastern Railway Company, Liverpool Street Station, E.C.2.
6. Mr. C. J. Selway, London and North Eastern Railway Company, Liverpool Street Station, E.C.2.
7. Mr. S. H. Hunt, London, Midland and Scottish Railway Company, Euston Station, N.W.1.
8. Mr. W. A. Ree, London, Midland and Scottish Railway Company, Euston Station, N.W.1.
9. Mr. Ashton Davies, London, Midland and Scottish Railway Company, Euston Station, N.W.1.
10. Mr. H. A. Sire, Southern Railway Company, London Bridge Station, S.E.1.
11. Mr. F. H. Willis, Southern Railway Company, London Bridge Station, S.E.1.

(b) *One person nominated by the Minister of Transport to represent railways and light railway companies not parties to the Railway Companies' Association.*

1. Mr. A. H. Loring, The Grange, Walton, Felixstowe, Suffolk.

SECOND SCHEDULE.

First Part.

FURTHER PROCEEDINGS IN CASES REFERRED TO IN THE SECOND SCHEDULE TO THE REPORT FOR 1925 WHICH HAD NOT BEEN COMPLETED AT THE END OF THAT YEAR.

1923.—No. 23.

The National Federation of Iron and Steel Manufacturers

against

The London, Midland and Scottish Railway Company.

1923.—No. 24.

The National Federation of Iron and Steel Manufacturers

against

The London and North Eastern Railway Company.

1923.—No. 25.

The National Federation of Iron and Steel Manufacturers

against

The Great Western Railway Company.

1923.—No. 26.

The National Federation of Iron and Steel Manufacturers

against

The Southern Railway Company.

1923.—No. 27.

The National Federation of Iron and Steel Manufacturers

against

The Cheshire Lines Committee.

No further proceedings have taken place upon these applications, and, by consent of the parties, the applications stand adjourned *sine die*.

1925.—No. 1.

The Great Western Railway Company,
The London, Midland and Scottish Railway Company,

against

The Princess Royal Colliery, Limited,
The Cannop Coal Company, Limited,
H. Crawshay and Company, Limited,
The Dean Forest Coal Company, Limited,
The Lydney and Crump Meadow Colliery Company, Limited,
The New Bowson Coal Company, Limited,
The Park Colliery Company, Limited,
The Parkend Deep Navigation Colliery Company, Limited,
G. F. Meek.

The hearing of this application was taken on 11th, 12th and 13th January, 1926, and judgment was given by the Court in writing, dated 27th January, 1926, signed by the Members and delivered by sending copies to the parties.

At the hearing, the Court were asked to determine reasonable charges not for "conveyance alone" but for "carriage" including conveyance and all other service and accommodation given for the inclusive rates other than the service of tipping.

In the light of the judgment of Mr. Justice Acton, the Court considered that they were precluded from adopting the Respondent's contention that they should fix the new rates for carriage with reference to the increased charges for tipping for which, upon the Applicants ceasing to perform the service, the Respondents became chargeable: fixing them, that is, at such amounts as would, when added to the new and increased tipping charges, produce totals not exceeding the inclusive rates for carriage and tipping which were current from a date prior to the Act of 1894 up to the date of the "difference."

Inasmuch as by the said Judgment the Applicants were relieved not only from the performance of the service of tipping, themselves, but also from any obligation to procure the performance of the service by others, they ceased to be chargeable with any part of the cost of it This being so, no part of such cost could, in the view of this Court, be admitted as an ingredient or factor into a calculation of what the amount of the new rate for carriage should be.

On behalf of the Applicants, various methods of fixing the new rates for carriage were placed before the Court. After very carefully considering them, the Court came to the conclusion that, under the circumstances of this particular case, the method of ascertaining the rates for carriage, which the Applicants themselves had adopted, and the results of which, after withdrawal of the service of tipping, they sought to put into operation, was one which could be followed. The Applicant's method was to "strip" the inclusive rates of so much thereof as represented, in their opinion, the charge for tipping leaving the balance as the new charge for carriage.

Accordingly, the Court in each case deducted from the base rate so much thereof (1½d.) as, in their opinion, represented the charge for tippiug and added to the balance the appropriate percentage increase. This result gave, in the opinion of the Court, in each case, a reasonable charge to be made by the Applicants for carriage including all services heretofore rendered and accommodation provided (other than tipping) for the inclusive rates. These reasonable charges which the Court determined were given in a Schedule to the Judgment. It was provided that the Applicants should modify the said charges in accordance with any general modification of coal rates and charges which they might subsequently make. The charges given in the Schedule covered the period from the 1st November, 1921, up to the time of the Judgment, and the Court decided that they were applicable thereto.

The Judgment covered the cases of all the Respondents although certain of them had not agreed that the action before Mr. Justice Acton should be treated as a test action. The Court found that no special facts differentiating their respective cases from those of the other Respondents had been shown, and that the cases of these Companies had been submitted to the Court for decision subject to and in the event of the Court deciding—following the decision of Mr. Justice Acton—that they were competent to fix a new rate and were not compelled under the Railways Act, 1921, to proceed by way of modifying the old rate. It will be seen that the Court so decided.

1925.—No. 2.

The Mayor, Aldermen, and Burgesses of the County Borough of Newport,
The Newport Harbour Commissioners,
The Newport Chamber of Commerce,

against

The Great Western Railway Company,
The London, Midland and Scottish Railway Company.

1925.—No. 3.

The Mayor, Aldermen and Burgesses of the County Borough of Newport,
The Newport Harbour Commissioners,
The Newport Chamber of Commerce (Incorporated),

against

The Great Western Railway Company.

There have been further interlocutory proceedings in connection with these two applications, but the applications are not yet ready for hearing.

1925.—No. 4.

The Association of Private Owners of Railway Rolling Stock,
The Railway Carriage and Wagon Builders' and Financiers' Parliamentary Association,

against

The London and North Eastern Railway Company,
The London, Midland and Scottish Railway Company,
The Great Western Railway Company,
The Southern Railway Company,
The Cheshire Lines Committee.

Details of the application were given in the report for 1925.

In their answer, the Respondents alleged that the rates per truck in force on 14th January, 1920, for railway trucks running on their own wheels not exceeding 7 tons each in weight had been in operation for many years without their reasonableness being challenged. That on 15th August, 1921, the charges for trucks not exceeding 7 tons each in weight were the rates in force on 14th January, 1920, increased by direction of the Minister of Transport by 100 per cent. and a flat rate addition of 6d. per ton. That the new specification for 12-ton mineral wagons, which came into force generally on 1st January, 1924, provided that the standard wagon constructed thereunder should not exceed 7 tons in weight, but subsequently the Applicants were notified that wagons not exceeding 7 tons 5 cwts. each in weight would, in certain circumstances, be accepted as complying with the specification. That the standard 12-ton wagon built in conformity with the new specification could be and was built so as not to exceed 7 tons in weight, and the majority of the 12-ton wagons constructed under

the specification were less than 7 tons 5 cwt. in weight. That in September, 1924, requests were laid before the Respondents to apply the charges for trucks not exceeding 7 tons each in weight to trucks not exceeding 7 tons 5 cwts. each in weight. That these requests were acceded to, and the said charges were applied accordingly as from 1st January, 1924. That the charges in force at the time of the answer for trucks not exceeding 7 tons 5 cwts. each in weight were the rates which were in force on 14th January, 1920, for trucks not exceeding 7 tons each in weight, increased by 50 per cent. and a flat addition of 4d. That the base rates in the charges in force were less for trucks of 7 tons 5 cwts. in weight than the rates in force on the 1st January, 1920, for trucks of the same weight, since on that date trucks of 7 tons 5 cwts. in weight were charged under the scale for trucks exceeding 7 tons and not exceeding 10 tons. That the average weight and capacity of trucks conveyed at the minimum rates in force was greater than the average weight and capacity of trucks conveyed at the minimum rates on 14th January, 1920. That Section 60 of the Railways Act did not empower the Court to make the Order set forth in the prayer to the application. That the application disclosed no grounds or no sufficient grounds for granting the relief claimed or for making any order reducing or which would have the effect of reducing the charges in force or any of them or for making any order under Section 60 of the Railways Act.

The application was heard on the 17th and 19th March, 1926, and was dismissed.

SECOND SCHEDULE.

Second part.

PROCEEDINGS UPON APPLICATIONS RECEIVED DURING 1926.

1926.—No. 1.

John Good and Sons, Limited, Hull.

against

The London and North Eastern Railway Company.

The Applicants are traders carrying on business as shipping and forwarding agents at Hull. Prior to 15th January, 1920, they forwarded merchandise by rail from Hull Docks to various destinations, paying therefor the Hull Station rates. Between 15th January, 1920, and 15th August, 1921, the said rates were increased by various orders of the Minister of Transport, which said increased rates (subject to certain reductions made from time to time) have since been and are now being paid by the Applicants. They allege that, included in the Hull Station rates payable by them, are charges for collection and station and service terminals all or some of which are not performed by the Respondents. The Applicants, therefore, ask that the rates payable by them be reduced by an allowance from the respective rates equal to the amounts included in each rate for collection and for service terminals, together with such proportionate part of the amounts so included for station terminals as to the Court may seem just.

In their answer the Respondents refer to their powers of charging under Section 60 of the Railways Act, 1921, and allege that on 15th August, 1921, and for many years prior thereto, the rates in force from Hull Docks were the same in amount as the rates in force at Hull Town stations. That since the 15th August, 1921, the Docks rates and the Town rates have been reduced to the same extent and are now the same in amount. That they perform the same services to-day in respect

of the Applicants' traffic from Hull Docks as on and prior to 15th August, 1921. That since 15th August, 1921, there has been no change in circumstances which calls for or justifies any alteration of the relationship which, at that date, existed between Docks rates and Town rates. That the application discloses no grounds or no sufficient grounds for reducing the said Docks rates.

Interloctutory proceedings not yet completed.

1926.—No. 2.

The Fife Paper Mills, Limited,

against

The London and North Eastern Railway Company.

The Applicants are a limited company carrying on business as paper manufacturers at Leven in the County of Fife. They import wood pulp which is discharged at Methil Dock, Fife, and conveyed by the Respondents from Methil Dock to Leven Dock Siding. The rate charged by the Respondents at the time of the application was 1s. 1d. per ton which the Applicants paid under protest. The Applicants alleged that under Section 26 of the North British Railway Order Confirmation Act, 1908, the rate was 6d. per ton, that this rate was in operation on the 4th August, 1914, and that it was fixed by special statutory provision for valuable consideration in the sense of Section 34 (2) of the Railways Act, 1921. They further alleged that the rate of 1s. 1d. per ton in operation at the time of the application, representing an increase of 50 per cent. plus 4d. per ton, was not fair and equitable. They therefore claimed that the rate be fixed at 6d. per ton or such other figure as shall seem to the Court just.

In their answer the Respondents alleged that the said rate was not fixed for valuable consideration, and that it was premature for the Applicants to found upon the provisions of Section 34 (2) of the Railways Act, 1921. That the rate of 1s. 1d. per ton was fair and equitable. That the rate in operation on 15th August, 1921, was 1s. 9d. per ton, representing an increase of 100 per cent. plus a flat rate of 9d. per ton, and that they have subsequently voluntarily reduced the increase. They claimed that, having regard to their charging powers and to the conveyance services for the short distance and also to the accommodation provided and the other services rendered by them, the rate of 1s. 1d. per ton was, in the circumstances, fair and reasonable, and that the Applicants were not entitled to the relief claimed.

The hearing of the application was fixed for 8th February, 1927, in Edinburgh.

1926.—No. 3.

Pilkington Brothers, Limited,
The United Alkali Company, Limited,
William Gossage and Sons, Limited,
The Broughton Copper Company, Limited,
United Glass Bottle Manufacturers, Limited,
Richard Evans and Company, Limited,
Peter Spence and Sons, Limited,
The Mayor, Aldermen and Burgesses of the County Borough of St. Helens,
The Mayor, Aldermen and Burgesses of the Borough of Widnes

against

The London, Midland and Scottish Railway Company.

The Applicants are traders carrying on business at or near St. Helens and/or Widnes and are persons interested in the relief sought. With the exception of the Corporations of St. Helens and Widnes, they were appointed as a Committee at a meeting of traders interested and as

such Committee are able to express the opinions of other traders named in a schedule to the application and interested in the matter of the application. The Applicants refer to Sections 13, 14, 15, 16, 17, 18, 23 and 24 of the St. Helens Canal and Railway Transfer Act, 1864, Section 72 of the London and North Western Railway (Additional Powers, England) Act, 1865, Section 48 of the London and North Western Railway (New Works and Additional Powers) Act, 1867, the London and North Western Railway Company Rates and Charges Order Confirmation Act, 1891, and Section 25 of the London and North Western Railway Act, 1902. The tolls, rates and charges set out in the St. Helens Canal and Railway Transfer Act, 1864, as amended, are set out in a Schedule to the application, and the Applicants allege that such charges were in operation on the 4th August, 1914, were fixed under special statutory provision or by subsisting agreements subsequent to the said Act and were all originally so fixed for valuable consideration. The application then refers to increases made since 4th August, 1914, and the charges in operation at the date of the application are also set out in the Schedule. The Applicants ask the Court to make (*a*) an Order to continue the said charges in operation on 4th August, 1914, as set forth in the Schedule, or alternatively, to continue the same subject to such adjustment (if any) as to the Tribunal may appear fair and equitable, such charges to be continued on the basis of the St. Helens Canal and Railway Transfer Act, 1864, (*b*) an Order to continue all other charges (if any) in operation on 4th August, 1914, on the undertaking transferred by the St. Helens Canal and Railway Transfer Act, 1864, or to continue the same subject to such adjustment (if any) as to the Tribunal may appear fair and equitable, such charges to be continued on the basis of the provisions of the said Act, or alternatively, to be continued at such reduced amounts (subject to adjustment, if any, as aforesaid) as were in operation on 4th August, 1914, in cases where, by consent of any trader and the Railway Company, less services were rendered by the Railway Company than was provided for by the said Act.

In their answer the Respondents allege that none of the charges referred to were fixed under any subsisting agreements or special statutory provision within the meaning of Section 34. That if the said charges or any of them were fixed under any such subsisting agreements or special statutory provision the same were not originally so fixed for valuable consideration. That the application discloses no ground, or alternatively, no sufficient grounds for the continuance, whether with or without adjustment, of any of the said charges. The Respondents will submit that the Tribunal should not entertain or adjudicate upon the application until the standard charges for the carriage of goods have been settled.

Interlocutory proceedings not yet completed.

1926.—No. 4.

The Mayor, Aldermen and Burgesses of the Borough of Southend-on-Sea

against

The London, Midland and Scottish Railway Company.

The Applicants allege that the increase in the permanent population of Southend, the selection of Southend as a place of residence, its popularity as a health resort and its general prosperity have been due to the exceptionally low passenger fares charged by the Respondents and their predecessors. That by Section 23 of the London, Tilbury and Southend Extension Railway Act, 1852, maximum fares of 1d. per mile 1st class, ¾d. per mile 2nd class, and ½d. per mile 3rd class were fixed. That these maximum fares were applied to extensions of the railway by the London, Tilbury and Southend Railway (Extension and Branches) Act, 1856, and the London, Tilbury and Southend Railway Act, 1882. That the Respondents acquired the undertaking of the London, Tilbury and Southend

Railway Company under the provisions of the Midland Railway (London, Tilbury and Southend Railway Purchase) Act, 1912, Section 10 of which continues the said maximum fares. That the Respondents' pre-war charges for season tickets were exceptionally low being based upon the passenger fares above referred to. That the Applicants withdrew their opposition to the Bill for the said Act of 1912 in Parliament owing to the existence of the clause which eventually became the said Section 10, and to a statement made on behalf of the Respondents before a Committee of Parliament. That by this statement the Midland Company promised to execute an agreement that they would not increase certain season ticket rates before 1st January, 1914, and after that date would not increase such season ticket rates without giving six months previous notice in writing to the Applicants and others and affording them an opportunity of objecting. They further allege that such an agreement was entered into and its operation subsequently extended for a further period in 1914, and that no such notice as is referred to has been given to the Applicants. That the fares and charges referred to in Section 10 of the Act of 1912, were in operation on the 4th August, 1914, and were fixed under special statutory provision as aforesaid or by subsisting agreements subsequent to the Act of 1912, and were originally so fixed for valuable consideration. The Applicants ask for an Order (*a*) to continue the said rates and charges which were in operation on the 4th August, 1914, or alternatively, to continue the same, subject to such adjustment (if any) as to the Tribunal may appear fair and equitable; (*b*) to continue season ticket rates in operation on the 4th August, 1914, or to continue the same, subject to such adjustment (if any) as to the Tribunal may appear fair and equitable.

In their answer the Respondents allege that the fares and charges specified in Section 23 of the London, Tilbury and Southend Railway Extension Act, 1852, were applicable only to certain sections of the routes between London and Southend. That the charges for season tickets in operation on 4th August, 1914, were not fixed under the agreement referred to in tho application, or, if they were so fixed, that they were not originally fixed for valuable consideration. Alternatively, that if they were fixed under the agreement and for valuable consideration, the agreement is not a subsisting agreement within the meaning of Section 34 (2) of the Railways Act, 1921. That the other rates and charges referred to in the application were not fixed under special statutory provisions within the meaning of Section 34, or, if they were so fixed, that they were not originally fixed for valuable consideration. The Respondents will submit that the application discloses no grounds or no sufficient grounds for continuing the fares, rates or charges in operation on the 4th August, 1914, either with or without adjustment. They will further submit that the Tribunal should not consider the application until the standard charges for the conveyance of passengers and for the issue of season tickets have been settled.

Interlocutory proceedings not yet completed.

1926.—No. 5.

The Hulton Colliery Company, Limited

against

The London, Midland and Scottish Railway Company.

The Applicants are owners of collieries in or about Hulton. They allege that in consideration of the abandonment of certain rights under Section 11 (8) of the London and North Western Railway Act, 1880, an agreement was made dated 17th August, 1885, by which a rate of 4d. per ton was fixed for the carriage of coal from Pendlebury Fold to the Applicants coal yard. That this agreement was extended by agreements dated 29th September, 1893, and 6th October, 1897. That the rates fixed under the said agreements were in operation on the 4th August, 1914, and were originally fixed for valuable consideration. That the

rates in force at the date of the application were 4d. plus 50 per cent. plus 2d. flat rate. The Applicants ask the Court to continue the said charges which were in operation on the 4th day of August, Nineteen hundred and fourteen, or alternatively, to continue the same subject to such adjustment, if any, as to the Court may appear to be fair and equitable in accordance with the provisions of Section 34 of the Railways Act, 1921.

Interlocutory proceedings not yet completed.

1926.—No. 6.

The Moss Hall Coal Company Limited,

against

The London, Midland and Scottish Railway Company.

The Applicants are owners of collieries in or about Wigan. They allege that, in consideration of the withdrawal of a petition against a Bill promoted by the Lancashire and Yorkshire Railway Company in 1885, an agreement was made dated 21st April, 1885. That by this agreement the Applicants have certain rights as to the construction and working of sidings and, pending the construction of the sidings, they are entitled to a rebate of 1d. per ton on all coal brought on the Railway Company's railway. That the said allowance and the rights granted to the Applicants under the agreement were in operation on the 4th August, 1914, and were originally fixed for valuable consideration. The Applicants ask the Court to make an Order that the said allowance of 1d. per ton be continued subject to such increase as to the Court may appear fair and equitable and that the Applicants be entitled to continue to exercise their rights under the said Agreement.

Interlocutory proceedings not yet completed.

1926.—No. 7.

The Pemberton Colliery Company, Limited.

against

The London, Midland and Scottish Railway Company.

The Applicants are owners of collieries in or about Wigan. They allege that, on or about the 15th December, 1851, it was agreed that, in consideration of the abandonment of a level crossing, the rate for traffic from the Applicants colliery to the Canal Siding at Wigan should be 4d. per ton instead of 6d. per ton. They further allege that by the provisions of Section 69 of the Lancashire and Yorkshire and East Lancashire Railways Amalgamation Act, 1859, the rate for traffic from the Applicants' colliery to Wigan for Preston and the North or for Warrington and the South was reduced from 6d. per ton to 2½d. per ton. That it was subsequently agreed that, in consideration of the payment of 3d. per ton instead of the said 2½d. per ton, the rate for traffic from the Colliery to the Canal Siding at Wigan should be 3d. per ton. They further allege that these rates were in operation on 4th August, 1914, and were originally fixed for valuable consideration and that the rates in force at the time of the application under the said agreement between the Colliery and the Canal Siding at Wigan were 3d. plus 50 per cent. plus 2d. flat rate. The Applicants ask the Court to make an Order enjoining the Respondent Company to continue the said charges which were in operation on the 4th day of August, 1914, or alternatively, to continue the same subject to such adjustment, if any, as to the Court may appear to be fair and equitable in accordance with the provisions of Section 34 of the Railways Act, 1921.

Interlocutory proceedings not yet completed.

1926.—No. 8.

The Wigan Coal and Iron Company, Limited,

against

The London, Midland and Scottish Railway Company.

The Applicants are owners of collieries, iron works and other industrial undertakings in or about Wigan. They allege that, by an agreement made on 13th May, 1865, in consideration of certain lines passing through lands of the Applicants' predecessor and in consideration of the provision by him of materials for a portion of the lines, it was agreed that the tolls for traffic between certain points should be based on actual mileage with a minimum as for two miles. The Applicants further allege that the rates fixed under the said agreement were in operation on 4th August, 1914, and were originally fixed for valuable consideration. That the rates in force under the said Agreement at the time of the application between certain specified points were 2d. per ton plus 50 per cent. The Applicants ask the Court to make an Order enjoining the Respondent Company to continue the said charges which were in operation on the 4th day of August, 1914, or alternatively, to continue the same subject to such adjustment, if any, as to the Court may appear fair and equitable in accordance with the provisions of Section 34 of the Railways Act, 1921.

Interlocutory proceedings not yet completed.

1926.—No. 9.

Richard Evans and Company, Limited,

against

The London and North Eastern Railway Company.

The Applicants are owners of collieries in or about Haydock. They allege that in 1885 the St. Helens and Wigan Junction Railway Company promoted a Bill to authorise a railway passing through the lands of Joseph Evans (predecessor of the Applicants). That Joseph Evans presented a petition against the Bill and, in consideration of the withdrawal of the petition, an Agreement was made under which Joseph Evans had certain rights as to the construction of sidings and working of traffic and by which certain rates for his traffic were fixed. The Applicants further allege that this Agreement was adopted and confirmed by an Agreement dated 19th January, 1886. That by an Agreement dated 30th October, 1899, between the Applicants (as successors of Joseph Evans) and the Liverpool, St. Helens and South Lancashire Railway Company (as successors of the afore-mentioned railway company) in consideration of the Applicants constructing and maintaining two branch railways, it was agreed that the rates in respect of the Applicants' traffic on the two branch railways should not exceed the amount chargeable by any other company or route in respect of such traffic. They further allege that the rates fixed under the Agreements of 1885 and 1886 and the rights granted to the Applicants thereunder were in operation on 4th August, 1914, and were originally fixed for valuable consideration. The Applicants ask the Court to make an Order (*a*) that the said rates be continued, or alternatively, that the said rates be continued subject to such adjustment, if any, as to the Court may appear to be fair and equitable, in accordance with the provisions of Section 34 of the Railways Act, 1921, and (*b*) that the Applicants be entitled to continue to exercise their rights under he said Agreement.

In their answer the Respondents allege that the first Agreement is not fully or accurately set forth in the application. That the rates were not fixed under any agreement but are the rates which the Great

Central Railway Company were entitled to charge under the Railway Rates and Charges No. 12 (M.S. and L. Railway, etc.) Order Confirmation Act, 1892. That none of the charges for the Applicants' traffic in operation on the 4th August, 1914, were fixed under any of the Agreements mentioned, or, if they were so fixed, that they were not originally so fixed for valuable consideration. Alternatively, that if they were so fixed for valuable consideration, the agreements are not subsisting agreements within the meaning of Section 34 of the Railways Act, 1921.

Interlocutory proceedings not yet completed.

1926.—No. 10.

Cardiff Collieries, Limited,

against

The Great Western Railway Company.

The Applicants allege that by an Agreement made on 23rd October, 1890, between them and the Rhymney Railway Company, it was agreed that, in consideration of the Applicants sinking a pit, the Rhymney Railway Company would charge rates for the Applicants' traffic between this colliery and Cardiff as low per ton per mile as the rates charged by the Rhymney Railway Company for the carriage of coal and other traffic to or from Cardiff from or to any colliery or works in Glamorganshire, that in computing the mileage rate the shortest practical route should rule the distance, and that the distance from the colliery to Cardiff should be reckoned as 11½ miles. They further allege that in or about March, 1896, it was agreed that while the Applicants performed the operation of shunting to the screens, the charges should be based upon 11 miles. They further allege that the said charges based upon 11 miles were in operation on 4th August, 1914, and were originally fixed for valuable consideration and that the Agreement so modified is still subsisting. The Applicants ask that the said charges be continued.

In their answer the Respondents allege that the Agreement is not fully or accurately set forth in the application. That the charges for the Applicants' traffic in operation on 4th August, 1914, were not fixed under agreement. That the maximum charge which the Rhymney Railway Company was entitled to make under the Rates and Charges Order Confirmation Act, 1892, for the conveyance of coal, was ·875d. per ton per mile irrespective of the length of haul, but subject to a short distance charge. That the Company charged shipment coal at ·543d. per ton per mile irrespective of the length of haul, and that the rates in operation on the 4th August, 1914, for the Applicants' shipment coal were calculated on this basis. That if the charges in operation on 4th August, 1914, were fixed under the Agreement referred to, which is denied, such charges were not originally so fixed for valuable consideration.

Interlocutory proceedings not yet completed.

1926.—No. 11.

Robert Addie & Sons' Collieries, Limited,

against

The London and North Eastern Railway Company.

The Applicants are traders carrying on business as coalmasters at various places in Lanarkshire and elsewhere in Scotland. They allege that, by an Agreement dated 25th November, 1878, and 15th January, 1879, in consideration for the closing of a private railway, the rates for certain traffics of the Applicants were not to exceed those paid prior to 3rd November, 1873. They further allege that the Agreement was confirmed by Section 20 of the North British (Bothwell) Railway

Amalgamation Act, 1879, and that the rates were granted for valuable consideration under a subsisting agreement and special statutory provision, in right of which the Applicants now stand. The Applicants ask for:

(1) A declaration that the rates referred to in Article 3 of the said recited Agreement were charges in operation on the 4th day of August, 1914, fixed under a subsisting Agreement or special statutory provision for original valuable consideration, and that the Applicants are now in right of the said Agreement.

(2) An Order directing the Respondent Company to charge said rates for the traffic to which they are applicable in terms of said Agreement, subject only to such adjustment of the amount of said rates, if any, as to the Tribunal may appear fair and equitable.

Interlocutory proceedings not yet completed.

W.B.C.
W.A.J.
G.C.L.

S.J.P.

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